

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OLUWATOMIWA AKINTOLA,

Movant,

-v.-

UNITED STATES OF AMERICA,

Respondent.

23 Civ. 3839 (KPF)

21 Cr. 472 (KPF)

**ORDER DIRECTING
PETITIONER'S ATTORNEY
TO FILE AN AFFIDAVIT AND
DIRECTING THE GOVERNMENT
TO ANSWER**

KATHERINE POLK FAILLA, District Judge:

WHEREAS Oluwatomiwa Akintola has moved for relief from his sentence pursuant to 28 U.S.C. § 2255 on the ground that his former attorney, David Touger, provided ineffective assistance of counsel; and

WHEREAS the Court, after reviewing Mr. Akintola's submission of his informed consent waiver of the attorney-client privilege and his 2255 petition, is satisfied that the testimony of Mr. Touger is needed in order to allow the Government to respond to the motion; and

WHEREAS by making the motion, Mr. Akintola has waived the attorney-client privilege as a matter of law,

IT IS HEREBY ORDERED that Mr. Touger shall give sworn testimony, in the form of an affidavit, addressing the allegations contained in Mr. Akintola's 2255 petition, dated April 27, 2023. (23 Civ. 3839, Dkt. #1; 21 Cr. 472, Dkt. #231). Mr. Touger is ordered to submit such affidavit by **June 30, 2023**. Mr. Touger is further directed to serve Mr. Akintola with a copy of such affidavit, and to file proof of such service on the docket.

The Government will have **60 days** from the receipt of Mr. Touger's affidavit to submit an answer or other pleadings in response to the pending petition and Mr. Touger's affidavit. Mr. Akintola shall have **30 days** from the date on which he is served with the Government's answer to file a response. Absent further order, the Court will consider the petition fully briefed following Mr. Akintola's response.

The Clerk of Court is directed to mail a copy of this Order to the individuals listed below the Court's signature.

SO ORDERED.

Dated: May 31, 2023
New York, New York



KATHERINE POLK FAILLA
United States District Judge

By ECF and First Class Mail To:

Oluwatomwa Akintola
48161-509
FCI Fort Dix Camp
P.O. Box 2000
Joint Base MDL, NJ 08640

David Touger
Peluso & Touger
70 Lafayette Street
New York, NY 10013

Matthew J. King
US Attorney's Office, Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007

Micah Festa Fergenson
United States Attorney's Office, SDNY
One Saint Andrew's Plaza
New York, NY 10007